

December 16, 2009

GLORIA L. FRANKLIN, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



KATHERINE JOHNSON (CA SBN 25985)

JOHN B. ACIERNO III (CA SBN 257176)

PITE DUNCAN, LLP

4375 Jutland Drive, Suite 200

P.O. Box 17933

San Diego, CA 92177-0933

Telephone: (858) 750-7600

Facsimile: (619) 590-1385

Signed: December 15, 2009

ALAN JAROSLOVSKY
U.S. Bankruptcy Judge

Attorneys for THE BANK OF NEW YORK MELLON FORMERLY KNOWN AS THE
BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO JPMORGAN CHASE
BANK, N.A. AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF
STRUCTURED ASSET MORTGAGE INVESTMENTS II TRUST 2004-AR7
MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004-AR7

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA - SANTA ROSA DIVISION

In re

OCEANA R. STUART,

Case No. 09-11901

Chapter 7

R.S. No. JBA-755

ORDER GRANTING MOTION FOR
RELIEF FROM AUTOMATIC STAY

DATE: November 25, 2009

TIME: 9:00 a.m.

Debtor(s).

Northern District of California - Santa Rosa
Division
United States Bankruptcy Court
99 South "E" Street
Santa Rosa, CA 95404-6524

The above-captioned matter came on for hearing on November 25, 2009, at 9:00 a.m.,
upon the Motion of The Bank of New York Mellon formerly known as The Bank of New York
as successor Trustee to JPMorgan Chase Bank, N.A. as Trustee for the Certificateholders of
Structured Asset Mortgage Investments II Trust 2004-AR7 Mortgage Pass-Through Certificates,
Series 2004-AR7 ("Movant"), for relief from the automatic stay of 11 U.S.C. § 362, to enforce
its interest in the property of Oceana R. Stuart ("Debtor") commonly known as 49 Ashford

1 Avenue, Mill Valley, California 94941 (the "Real Property"), which is legally described as
2 follows:

3 SEE LEGAL DESCRIPTION AS EXHIBIT TO PROPOSED
4 ORDER GRANTING MOTION FOR RELIEF FROM
AUTOMATIC STAY, DOCKET ENTRY NUMBER 21.

5 Appearances as noted on the record.

6 Based on the arguments of counsel, and good cause appearing therefor,

7 IT IS HEREBY ORDERED:

8 1. The automatic stay of 11 U.S.C. § 362, shall be terminated effective December
9 25, 2009 as it applies to the enforcement by Movant of all of its rights in the Real Property under
10 Note and Deed of Trust, and pursuant to applicable state law;

11 2. Upon termination of the automatic stay, Movant shall be authorized to foreclose
12 its security interest in the Real Property under the terms of the Note and Deed of Trust, and
13 pursuant to applicable state law;

14 3. The 14-day stay provided by Bankruptcy Rule 4001 (a)(3) is waived;

15 4. Post-petition attorney's fees and costs for the within motion may be added to the
16 outstanding balance of the subject Note as allowed under applicable non-bankruptcy law;

17 5. Upon foreclosure, in the event Debtor fails to vacate the Real Property, Movant
18 may proceed in State Court for unlawful detainer pursuant to applicable state law;

19 6. Upon termination of the automatic stay, the Chapter 13 Trustee shall cease
20 making payments in regard to Movant's claim filed in this bankruptcy case;

21 7. Movant may offer and provide Debtor with information re: a potential
22 Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss
23 Mitigation Agreement, and may enter into such agreement with Debtor. However, Movant may
24 not enforce, or threaten to enforce, any personal liability against Debtor if Debtor's personal
25 liability is discharged in this bankruptcy case; and

26 8. This Order shall be binding and effective despite any conversion of this
27 bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

28 ** END OF ORDER **